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Charles Darwin University

Final Examination

Family Name						
Given Name/s						
Student Number						
Teaching Period	Semester 2, 2017					

LWA331 – Finance and Securities Law	DURATION	
	Reading Time:	10 minutes
	Writing Time:	120 minutes
INSTRUCTIONS TO CANDIDATES		
<p>Answer all questions in Part A Choose one essay question to answer in Part B The exam is worth 50% of the total grade of the unit</p>		
EXAM CONDITIONS		
<p><u>You may begin writing from the commencement of the examination session.</u> The reading time indicated above is provided as a guide only.</p>		
This is an OPEN BOOK examination		
Any calculator is permitted		
Any handwritten material is permitted		
Any hard copy, English dictionary is permitted (annotated allowed)		
ADDITIONAL AUTHORISED MATERIALS	EXAMINATION MATERIALS TO BE SUPPLIED	
Any printed material with the exception of CDU Library books	2 x 16 Page Book 1 x Scrap Paper	

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Part A

Question One – 35 marks

YOU MUST ANSWER ALL QUESTIONS IN THIS PART

Task:

You are a junior lawyer in a large suburban law firm that services many clients across a range of legal areas. Your boss, a senior Partner has asked you to prepare a response to Mr Smithy, a long term client. He has provided the following facts.

Mr Smithy recently won \$1.2 million in a lotto superdraw. He is a carpenter, and describes himself as a simple man nearing retirement. He wants to know about some investment options that have been proposed to him by Mr Moulla, a financial agent. Mr Smithy met Mr Moulla at a 'winner's party' and does not know whether Mr Moulla is a licensed financial agent, a stockbroker or an adviser. He is concerned that he doesn't know what Mr Moulla is talking about and doesn't want to hand over his winnings to someone that keeps talking about security and safe risk in the same sentence!

Mr Moulla has discussed the following options with Mr Smithy.

Option A

Mr Smithy could purchase through Mr Moulla a debt in company A that will be paid back to him with interest in 7 years when he wants to retire. Mr Moulla can draw up the contract and Mr Smithy can sell the debt whenever he wants.

Option B

Mr Smithy could purchase through Mr Moulla some shares to own part of company B that he can sell at any time.

Option C

Mr Smithy could purchase part of Company C. Company C isn't yet listed on the ASX and is still being set up by Mr Moulla and his friends. Mr Moulla says this is the most profitable option with the greatest returns.

Other information

Assume that both companies A and B are publically listed on the Australian Stock exchange and deal mainly in the mining and pharmaceutical industries. If you need to make any assumptions in providing your response, state those assumptions in your answer.

1. What sort of financial arrangement s/ products are being offered? Address each option separately and explain the arrangement in plain English for Mr Smithy. (6 marks)
2. What are the regulatory requirements for persons trading in these options? e.g. is a licence required (3 marks)

3. Are there any disclosure obligations or requirements? In your opinion would they protect the average unsophisticated consumer in the above scenarios? (9 marks)
4. If any breaches occur which lead to losses for Mr Smithy, would there be any recourse for him? Could civil or criminal charges be made against Mr Moulla? (9 marks)
5. Would your answer differ to any of the above questions, if it were discovered at a later date that Mr Moulla was a Director of companies A or B. Why or why not? (8 marks)

Part B – 15 marks

CHOOSE ONE ESSAY QUESTION TO ANSWER

1. Derivatives are regulated under Chapter 7 of the *Corporations Act*, and changes were made in 2012 to implement the international G20 reforms. How does a derivative differ from other forms of security? Are they a riskier financial tool or simply harder to understand than other financial transactions due to their perceived complications? Why is specific regulation necessary?
2. Using the finance sector to implement Anti- Money laundering and Terrorist financing regulations requires the co-operation of authorised deposit taking institutions and relies heavily on disclosure and reporting obligations. Given the recent failure of the Commonwealth Bank of Australia to report multiple breaches, do you agree with the current regulatory approach? In your opinion, is the current regulatory approach adequate to prevent further breaches? What changes would you implement and why? Use an example to illustrate your argument, e.g. you could choose to focus on securities markets or international electronic transfer of funds.

END OF EXAM